



North Carolina Department of Health and Human Services  
Division of Health Service Regulation  
Certificate of Need Section

2704 Mail Service Center • Raleigh, North Carolina 27699-2704  
<http://www.ncdhhs.gov/dhsr/>

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Phone: (919) 855-3873  
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June 27, 2012

Richard P. Church  
K & L Gates, LLP  
P.O. Box 14210  
Research Triangle Park NC 27709-4210

RE: No Review / Rex Hospital, Inc. / Corporate merger of Rex Hospital, Inc. and its subsidiary, Rex Home Services, Inc. / Wake County  
FID #: 953429

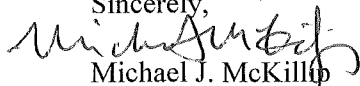
Dear Mr. Church:


The Certificate of Need (CON) Section received your letters of June 14, 2012 and June 22, 2012 regarding the above referenced proposal. Based on the CON law **in effect on the date of this response to your request**, the proposal described in your correspondence is not governed by, and therefore, does not currently require a certificate of need. However, please note that if the CON law is subsequently amended such that the above referenced proposal would require a certificate of need, this determination does not authorize you to proceed to develop the above referenced proposal when the new law becomes effective.

It should be noted that this determination is binding only for the facts represented by you. Consequently, if changes are made in the project or in the facts provided in your correspondence referenced above, a new determination as to whether a certificate of need is required would need to be made by the Certificate of Need Section. Changes in a project include, but are not limited to: (1) increases in the capital cost; (2) acquisition of medical equipment not included in the original cost estimate; (3) modifications in the design of the project; (4) change in location; and (5) any increase in the number of square feet to be constructed.

In addition, you should contact the Acute and Home Care Licensure and Certification Section to determine if they have any requirements for development of the proposed project. Please contact the CON Section if you have any questions.

Sincerely,

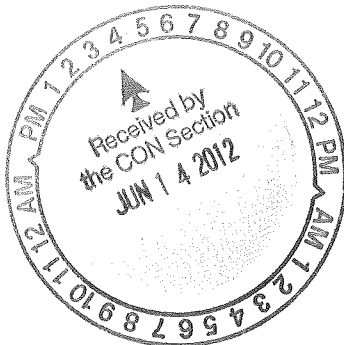
  
Michael J. McKillop  
Project Analyst

  
Craig R. Smith, Chief  
Certificate of Need Section

cc: Acute and Home Care Licensure and Certification Section, DHSR



*mike*



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June 14, 2012

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Via Hand Delivery

Mr. Craig R. Smith  
Chief, Certificate of Need Section  
Division of Health Service Regulation  
North Carolina Department of Health & Human  
Services  
809 Ruggles Drive  
Raleigh, North Carolina 27603

Re: Exemption Notice for Rex Home Services, Inc. (License No. HC0422)

Dear Craig:

We are writing to notify you concerning an upcoming transaction between our client, Rex Hospital, Inc. (“Rex Hospital”) and its subsidiary Rex Home Services, Inc. (“Rex Home”). The purpose of this letter is to provide notice to the North Carolina Department of Health and Human Services, Division of Health Service Regulation, Certificate of Need Section (the “CON Section”) of the merger of Rex Home into Rex Hospital pursuant to a corporate reorganization, which transaction is exempt from certificate of need (“CON”) review under N.C. Gen. Stat. § 131E-184(a)(8).

**I. THE PROPOSAL**

Rex Home is a licensed and certified home health agency located at 2709 Blue Ridge Road – Suite 220, Raleigh, NC 27607. Pursuant to the proposed Agreement and Plan of Merger, effective on or about July 1, 2012, Rex Home will merge into Rex Hospital, with Rex Hospital being the surviving corporation. The parties will be submitting a change of ownership application to the Licensure Section to effectuate the transfer of the license.

**II. EXEMPTION NOTICE**

Under North Carolina law, a CON is required only prior to offering or developing a “new institutional health service.” “New institutional health service” includes a variety of services and activities, including the establishment of a home health agency office.<sup>1</sup> However, the North Carolina General Assembly has exempted certain types of services or

<sup>1</sup> See N.C. Gen. Stat. § 131E-176 (9b), (12), and (16)(a).

Craig R. Smith, Chief  
June 14, 2012  
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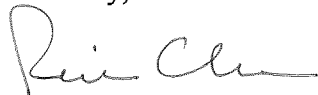
proposals from CON review under N.C. Gen. Stat. §131E-184, including the acquisition of an existing health service facility, including equipment owned at the time of acquisition.<sup>2</sup>

This transaction involves only the acquisition via merger of an existing "health service facility," including all equipment owned at the time of acquisition. After the merger contemplated by the proposed Agreement and Plan of Merger, Rex Hospital will continue to operate this health service facility at its current location. Furthermore, the acquisition via merger of Rex Home does not entail the purchase of any major medical equipment or any *per se* reviewable equipment as defined in N.C. Gen. Stat. §§ 131E-176(14)(o) and (16)(f1). Likewise, the acquisition via merger does not include the offering of any *per se* reviewable services.<sup>3</sup> Thus, given that the transaction involves only the acquisition via merger of an existing health service facility, it is exempt from CON review.

### III. CONCLUSION

Based on the foregoing information, we hereby request the Agency's confirmation that the proposal described above is exempt from CON review, under N.C. Gen. Stat. §131E-184(a)(8). If you require additional information, please contact us at the above number as soon as possible.

Sincerely,



Richard P. Church

cc: Don Esposito, Esq. General Counsel, Rex Healthcare  
Bernadette Spong, Chief Financial Officer, Rex Healthcare

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<sup>2</sup> See N.C. Gen. Stat. § 131E-184(a)(8).

<sup>3</sup> See N.C. Gen. Stat. §131E-176(16)(f).